

**PUBLIC WORKS**

**AND**

**PUBLIC TRANSPORTATION COMMITTEE**

**of the**

**SUFFOLK COUNTY LEGISLATURE**

**Minutes**

A regular meeting of the Public Works and Public Transportation Committee of the Suffolk County Legislature was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, Veterans Memorial Highway, Smithtown, New York, on Tuesday, **February 8, 2005**.

**MEMBERS PRESENT:**

Legislator Allan Binder • Chairman

Legislator Peter O'Leary • Vice•Chairman

Legislator John Kennedy

Legislator Brian Foley

Legislator Ricardo Montano

Legislator Angie Carpenter

**ALSO IN ATTENDANCE:**

Mea Knapp • Counsel to the Legislature

Jim Spero • Budget Review Office

Kevin Duffy • Budget Review Office

Charles Bartha • Commissioner • DPW

Bill Shannon • Highway Department • DPW

Leslie Mitchel • Deputy Commissioner • DPW

Bill Hillman • Chief Engineer • DPW

Alexandra Sullivan • Chief Deputy Clerk • Legislature

Bill Faulk • Aide to P.O. Caracappa.

Ben Zwirn • County Exec's Office

Lynne Bizzarro • County Attorney's Office

Ellen Martin • Aide to Chairman Binder

Frank Tassone • Aide to Majority Leader

All Other Interested Parties

MINUTES TAKEN BY:

**(\* THE MEETING WAS CALLED TO ORDER AT 1:38 P.M. \*)**

**CHAIRMAN BINDER:**

If everyone will stand for the Pledge of Allegiance led by Legislator Carpenter.

### **SALUTATION**

**CHAIRMAN BINDER:**

Okay. The Public Works and Public Transportation Committee will come to order. I have no cards. Are there any? No. No cards. No one wants to come speak. We'll go right into the agenda. Okay. We will go right to 21 •• let me ask, if I could, the Commissioner if he wants to come up. It's always good to have the Commissioner sitting there so we don't have to call you up in the middle. So if anyone has a question •• let's do this, if anyone has a question, but not on a resolution that's coming up, but it's separate •• in other words, if it's a resolution, when we get to it, you can ask questions.

### **TABLED RESOLUTIONS**

**2128•04. Authorizing alteration of rates for Davis Park Ferry Company. (PRESIDING OFFICER)**

**CHAIRMAN BINDER:**

Legislator Carpenter.

**LEG. CARPENTER:**

Motion to table.

**CHAIRMAN BINDER:**

Motion to table.

**LEG. O'LEARY:**

Second.

**CHAIRMAN BINDER:**

Seconded by Legislator O'Leary.

**LEG. FOLEY:**

Just on the motion, Mr. Chairman.

**CHAIRMAN BINDER:**

On the motion, Legislator Foley.

**LEG. FOLEY:**

Since it's in my district, I just want to hear from the Budget Review Office on this where it stands. Come on, Kev, it's rare that we hear from you.

**MR. SPERO:**

We sent a letter to Mr. Beck, the attorney for the company, and said the pier review he had done for his client's accountant wasn't up to the standards we require by the ferry companies. Since that letter went out, he has been in touch with Kevin Duffy, and Kevin has informed him of what we consider to be a proper pier review letter. And he is now in the process of trying to arrange for that pier review to take place. And once that's done and the proper financial statements have been submitted, we can begin our review of their rate application request.

**LEG. FOLEY:**

If I may, Mr. Chairman, any time indicated how long this would take; matter of weeks, matter of months? What kind of window are we looking at in time?

**MR. DUFFY:**

We understand that he's in the process of talking with another accountant who has the proper

per review. He is going to discuss with this accountant what use he could make of \\_Mr. Brody's\\_ work, and perhaps if the accountant feels comfortable with it, he then will be able to do ••

**LEG. FOLEY:**

That's all background. As far as a time frame, what are we looking at for a time frame?

**MR. DUFFY:**

It's up to Mr. Beck and the accountant, it could take, you know, days, months, we don't know, it's out of our control.

**LEG. FOLEY:**

Okay. Thank you, Mr. Chairman.

**CHAIRMAN BINDER:**

Okay. We have a motion and a second. It looks like it needs to be tabled. All in favor? Opposed? 2128 is **tabled. (VOTE:6•0•0•0).**

I first want to say, I appreciate, Mr. Bartha, you getting us the information. I just handed it out, I haven't looked at it yet, but it looks pretty complete on each of the resolutions. So as long as we have this opportunity at our first 477 that's come up on the agenda, we should probably have a bit of a discussion on the report, which magically got into Newsday already, the report done by

Budget Review on the 477s. Let me ask, Jim, does everyone •• did everyone get a copy? I assume everyone has a copy of •• okay. So we have some copies to hand out.

The question is on, obviously on the use and how we are going to define the 477s. I just •• let me ask Counsel, I assume this is from Budget Review, but Counsel has something to do with the •• with the authorship somewhere in here. I know your name is on here.

**MS. KNAPP:**

I think it's fair to say that we collaborated on this •• on this particular memo. The early parts of the memo particularly are virtually all mine with certain minor modifications made by Budget Review, all the part of the memo is virtually all Budget Review's with certain modifications made by me. But it was certainly a joint effort, we reviewed each other's work. And to the extent we saw any ground for disagreement, we either compromised it or left it out.

**CHAIRMAN BINDER:**

Okay. So a very thumbnail sketch of •• of the memo and the most thumbnail, if you go to page three of the memo, you have a little bit of a summary. And you said that the 477, an appropriating resolution must be offered for one of the following purposes; one being the most •• would be most common, because the other three will be few and far between. One being projects from the more comprehensive program, which requires recommendation by the Management Committee of SSER and PEP and/or LISS, two would be projects to implement no discharge zones, three, projects for educational research with matching funds, and previously, you've said 50% or more, and four, projects to remediate other non point source pollution.

So generally, the most prevalent will be number one. And in reading it, if I remember correctly, there were two ways to do it, strict instruction on the legislation would have us, and this is really

towards page two if you were looking at the memo, strict instruction would be that it literally would have to come out of recommendation of the committees, one of committees, and a broader interpretation, which is, I assume, possible, and that's why it was put in there, but Counsel feels that the interpretation would bear scrutiny, is that there would have to be a nexus between the project and the recommendation from a management •• from the Management Committee. So meaning, if there was a general report that issued general parameters of •• if I speak and I'm off the •• off the path here, please, Counsel, jump in. If there's a project and it resembles, has a nexus to, has a relationship to a particular general recommendation project that the committee was looking at or put into a report, that would qualify as actually having been a recommendation, as if it were recommended even if it wasn't as an individual report •• project recommended. Was that •• is that ••

**MS. KNAPP:**

That's actually almost identical, the only thing I would add is that the Management Committees of the South Shore Estuary, the Peconic Estuary Program, and what is referred to in the Charter as LICMP, which is now the LISS, Long Island Sound Study, they all have published management committee reports. So that it is probably to read one of their reports and to propose a project that implements one of recommendation in their reports. And you are also correct in that you say that, I do not consider myself to be a strict constructionist, and I think that it probably impedes the functioning of government in my own opinion, and certainly this is something that the Legislature can decide on its own, whether it prefers a more strict construction. But I do think that legally it would be permissible not to require a specific recommendation of a specific project, but to allow the more •• probably the more expeditious method of establishing some connection between a management recommendation of one of those three committees and propose projects.

**CHAIRMAN BINDER:**

The next part •• you know, you go through this, the numbers are interesting as to an overstatement of the carry forward and 2004 estimated fund balance. So we're talking about a

7.3, \$7.4 million difference. Also I thought, and just another point of information, a point that Budget Review makes, that those on the particular committees shouldn't be making recommendations. Their concern is for a conflict of interest. I don't know if that was •• it seems in the part that was done by Budget Review, but it seems more of a legal question as to whether an example, I think, like Cornell Cooperative Extension, we're passing things, and it might be out of their own recommendations. Their on the committee, and then it comes before us. So I just wanted to kind of raise that and ask Counsel about that question of conflict. That jumped out at me a little.

**MS. KNAPP:**

You apparently have read this very, very closely. It was, indeed, part of the Budget Review part. However, they asked me to review it, and I concur with the statement.

**CHAIRMAN BINDER:**

Okay. So that should •• that should concern some, and definitely we should have an eye towards it. The question that Budget Review puts to us, and I think the committee has to take seriously and have discussions on is setting policy. And they really lay it out before us, and they layout issues. If you go towards the back, the following issues should be considered before final decision should be made.

And it has prioritization, whether it's a substitute for operating funds, and they talk about programs like organic maintenance, IPM, should be funded directly from the General Fund, stormwater remediation project limits should be set, what are we talking about, are we talking clean up or are we talking innovative methods, meaning, you know, Rocks in a Box and other questions that we have looked, should the costs be associated, but not directly related to Charter requirements being permitted from the 477. And then they make another point. I don't know, it's something to put into mind, that the report that we should be getting from County Executive

provide a more accurate report of the funds available in each of the 477 accounts, and we should look at that in determining what we're doing.

One of the questions I would have, maybe for Ben or for Charlie, the •• there is a required reporting •• or, like, I don't know who wants to handle it, I see heads going, maybe you want to do it, since we've get the troika up there, maybe one of you want to handle how or who we are going to be looking at a report based on the legislation. I know it's somewhat unnerving to look at the volumes of reports that are required by the Legislature, but Mr. Levy was here when we were doing a lot of these, and he passed them himself, so he can't really complain now that he's at the other end, I'm sure he is not. There's a lot of things •• reports that we require, this is one of them. And our BRO is actual pointing out the importance of having the report and going forward. So maybe you can talk about the preparation of the report or where the administration is on that.

**MR. DEERING:**

We will be providing an update on all projects approved in 2004 as well as the previous years as well •• including the monies that have been expended, purposes, we'll tie them into each of the water bodies, the studies that you are talking about, we'll give you a comprehensive update on that •• on that program since its inception. That should be available at the next meeting.

**CHAIRMAN BINDER:**

Let me ask Counsel, is that what the requirements is under the resolution? Give me idea of what we should •• we should be expecting of the resolution and then •• I guess, I differ a little bit.

**MS. KNAPP:**

I mean, 1204, to my knowledge, and Budget Review will correct me if I'm wrong, is the resolution that was, I believe, authored by Legislator Alden that required a breakdown of the various funds, including the open space monies, the water quality monies.

**CHAIRMAN BINDER:**

Is that Budget Review's feeling on that also, that that's what we should expect, a breakdown of funds?

**MR. SPERO:**

We acted jointly on this issue last year, there are other resolutions requiring that it be updated.

**MR. DEERING:**

I thought the budget part of it had been updated. I'll go back and talk to the budget folks.

**MR. ZWIRN:**

I think •• I think we want •• I think, you know, even looking at the paper today, the County Executive wants to get these projects, you know, before you so they can be decided on the merits. You know, we're looking •• I appreciate today going through some of the procedures that will make that •• make that possible. We were here, you know, in a way to try to work together to do this. And, you know, we are prepared to, you know, go into the merits of the ones that we have before you. Just tell us, and I think you are, what you want us to do, and if it's •• we will comply. I mean, we will get it done. Binds.

**CHAIRMAN BINDER:**

Legislator O'Leary.

**LEG. O'LEARY:**

My question has to do with the Resolution 1169•02, which put together the Water Quality Protection and Restoration Committee. My question to you, Mr. Zwirn, or anyone else who wishes to respond to this is has this committee ever met for purposes of making a recommendation to this body, and if so, when, and if not, why?

**MR. ZWIRN:**

I'll let Mike go into it, but let me first say that I think it has met sporadically, and some of the projects that have come before the Legislature, whether they have been initiated on the County Executive side or the Legislative side have not. So it's been sort of •• it hasn't been consistent. There were projects that were passed last year that were Legislative initiatives out of the 477 account that were passed and had never been reviewed by a committee, and some which had. And I think that's part of the confusion, is that, you know, we're trying •• if we're going to •• if we're going to do it through this review committee, then that's what we will do. And then everybody's will go there for a recommendation, and we'll just •• we'll be consistent on both sides.

**LEG. O'LEARY:**

Well, I think it's obvious now that the reason why this was brought to our attention is the abundance of the proposals that came through utilizing 477 Funds all at one time. I mean, as you say it was sporadic in the past, but when you get eight or nine put before you, you know, we're going to look into the reasons why, obviously. And I was unaware of a committee that was

formed for purposes of review. And certainly that's been issue. So is the answer to your question, yes, they have met?

**MR. ZWIRN:**

Yes, they have. And some of the ones that came before the Legislature and were passed had come out of •• had been reviewed and recommended by the committee, and some had just been initiated either by Legislators or by the County Executive's office without having gone through the committee. And as I •• and we read through the BRO's report, we don't have any problem with that.

**LEG. O'LEARY:**

Objection to •• I mean, something of this magnitude with eight or nine resolutions, don't you think there should be a recommendation or review by the committee?

**MR. ZWIRN:**

Well, in fairness, I think most of the committee was up here making the presentation to the Board. Charlie Bartha, for example, is the Chair of that advisory committee. So I mean, I don't think there was any •• I think that we feel that the resolutions, the projects, will fly on their merits. If we have a process that the Legislature wants us to go through because it's already been laid out in the past, we will be consistent and we'll do that. So from now on, they will go through that process as opposed to some did and some didn't. On either side, it was never done, I think, in a malicious way. It was just, you had a project, I don't think anybody was thinking that •• we'd let the projects be, you know, judged on their merits. But there is an advisory committee, and it is only an advisory committee, which means that projects ••

**LEG. O'LEARY:**

But there is a committee that has to, by Legislative direction, review these proposals?

**MR. ZWIRN:**

Yeah. And we are willing to •• we're willing to work with you on that. That's not a problem.

**LEG. O'LEARY:**

Okay. So the answer to my question, yes, they have met with respect to these proposals, or no, they have not?

**MR. ZWIRN:**

You get two pit bulls or attack dogs in the same room, and nobody knows •• we can't figure out what we're saying.

**LEG. O'LEARY:**

So is the answer to the question, yes, they have met with respect to these proposals?

**MR. ZWIRN:**

Some of them. The answer is sometimes. Some, but not all. What I'm trying to say is they haven't been consistent. Some of them have come forward, but not just on the County

Executive side, some were Legislative initiatives as well came through without going through. So that's what I'm saying, it was never done •• you know, we will work •• we want to work together on this. We think that these projects have merit and will qualify for the 477 money. I mean, there may be a difference of opinion on that somewhere down the road, but we think they will. And when we have the opportunity to make the presentation, we think we'll be able to persuade you that that's correct.

**LEG. O'LEARY:**

Still haven't gotten an answer to my question. On some of them, that's the answer, not all of them?

**MR. ZWIRN:**

In the past. Are you talking about ••

**LEG. O'LEARY:**

No. I'm talking about the ones right before us today.

**MR. ZWIRN:**

Those have not gone through.

**LEG. O'LEARY:**

All right. Thank you, sir.

**MR. ZWIRN:**

I thought you meant in general.

**LEG. O'LEARY:**

No. I meant the ones that are right before us today.

**MR. ZWIRN:**

That's different.

**LEG. O'LEARY:**

No, it's not different.

**MR. ZWIRN:**

Well, these haven't. No, these are some of the ones that have not.

**LEG. O'LEARY:**

That's the answer to my question.

**CHAIRMAN BINDER:**

I just, for the record, he can speak for himself, but in conversation with Legislator Caracciolo who would be, I guess, was he the member that was supposed to be called on this? Was he the designated member last year?

**MR. ZWIRN:**

Yes.

**CHAIRMAN BINDER:**

So he hadn't been called. So for whatever reason, just, you know, maybe he's feeling neglected. So you should give him a call and see if you get him down to these meetings. If you're having the meeting, you should have the Legislative representative. Legislator Kennedy.

**LEG. KENNEDY:**

In scanning the memo, I just have •• well, I have a number of questions, but I just have a simple procedural question whether it's for Counsel or BRO or anybody at the table. The three programs that are identified; South Shore Estuary Reserve, Peconic Estuary, and the Long Island Sound, would the meeting of the committee from the resolution from 2002, the WQPRP, does that committees actually represent somehow •• is there any involvement between the three identified programs and that Water Quality Review Committee, or are they separately established priorities which that oversight committee then gets?

**MS. KNAPP:**

The three committees, the South Shore Estuary Reserve Committee, the Peconic Estuary Preserve and the Long Island Sound Study are completely separate. Now, there is a caveat to that in that the Peconic Estuary Committee particularly tends to be heavily populated by •• by County people, unlike the South Shore Estuary and the Long Island Sound Study, which are much more comprehensive groups and, indeed, include representatives from the state and from Nassau County.

The Water Quality Protection and Restoration Committee •• is that what we call it now? That committee consists of eight people. I know that the Commissioner of Health Services has a representative on the Peconic Estuary, so that's where you start to get a lot of overlap. I point out that on the Water Quality Review Committee that the Presiding Officer also has a member on that committee. And in doing the research for this memo, I did call that particular individual, that Legislator, and asked him if the committee had met since January of 2004. And he advised me that he wrote several times and called, and was told that they had not met.

**LEG. KENNEDY:**

Thank you.

**CHAIRMAN BINDER:**

Legislator O'Leary.

**LEG. O'LEARY:**

Can I make a suggestion to the County Executive representative? I mean, we're as anxious to move on these projects as you are, but we are also of the opinion that you should adhere to existing regulatory type of resolutions. I would think that if you called a formal meeting of this particular meeting •• I mean, you did supply a more detailed explanation of the projects themselves, and that's appreciated. But we still don't have the recommendation or the advise or what will you of the committee itself. If you could call for a meeting of this committee, a formalized meeting, where they review these projects and present through the Chair, which is the DPW Commissioner, that they have, in fact, met and this is their recommendations, I think we can move these issues rather quickly.

**MR. ZWIRN:**

I appreciate that. There's just one •• one issue that we have with the committee that you touched on previously, and, I think, Mike Deering just wants to talk to you about the conflict of interest.

**MR. DEERING:**

There is one concern. On page four of the report, it talks about the agencies on the review committee should not be submitting ••

**LEG. VILORIA • FISHER:**

Page three.

**MR. DEERING:**

Page three, I'm sorry. Submitting application for funding. The government •• the County Government agencies that have historically submitted applications are the exact entities that serve on that advisory committee. The program as was set up seems to indicate that, you know, the project •• the funding is for County projects to improve water quality to offset some of the County cost to do the projects that we may not have been able to afford otherwise.

So the concern that we would have is Department of Planning, Department of Public Works, Department of Parks, Department of Health Services all serve on that advisory committee, and we don't think that there's a conflict there as the resolutions come from either Legislators or the Executive who do actually set the policies and do the resolutions. So we don't see that necessarily as a conflict. We see the program that had been set out by referendum and Charter Law accommodating projects like the ones that are before you right now.

**LEG. O'LEARY:**

I just want to follow up on that statement by Mr. Deering. So you're taking the position basically opposed to this memo that's in front of us with respect to that issue you just raised?

**MR. DEERING:**

Yes.

**LEG. O'LEARY:**

Then I'd like to ask either BRO or Counsel to comment on that with respect to the contents of the report on page three that Mr. Deering just referred to.

**MR. SPERO:**

Well, with regard to Cornell, especially last year with the shellfish restoration program for Peconic, you know, they were the agency that was getting the benefit of the funding, and they're also on the committee that would approve that funding. So we just feel that that is a conflict insofar as they get to vote on the benefit of the funds and make recommendations to obtain those funds.

**MR. DEERING:**

I think if you're talking about Cornell that, you know, we may not have a difference of opinion so much as the agencies of the County Government who actually serve on those. And I believe Cornell during the •• Charlie can correct me if I'm wrong •• I believe they did recuse themselves from any votes involving projects that they were involved in. But I think the concern that we have right now is the county •• the County Governmental Agencies who have, in fact, historically been given funds •• provided funds through this program to accomplish projects to include water quality.

**CHAIRMAN BINDER:**

Legislator Vioria•Fisher.

**LEG. VILORIA•FISHER:**

Jim or Mea, I'm not trying to split hairs, but the agency actually doesn't approve the funding, we do, the Legislature approves the funding. And these groups, these committees, actually make recommendations, they don't have the ability to appropriate funds or approve or funding, do they?

**MR. SPERO:**

No, absolutely not. However they do derive the benefit of those funds if they are approved.

**LEG. VILORIA • FISHER:**

Right. But they are not the entity that approves the funding, we are the ones who approve the funding.

**MR. SPERO:**

Only the Legislature can approve the funds.

**LEG. VILORIA • FISHER:**

Exactly. I'm thinking in terms of something that came out of one of the committees last year or several of them, PEP in particular, which was their recommendations that we lower the levels of insecticides and fertilizers that are used in our agricultural industry, and out of that came my resolution to put together an agriculture •• farming •• an agricultural environmental task force, and then out of that came recommendations in line with AME, which is the state recommendations. And when we •• when you and I worked on the budget together to see where we could best channel that money to achieve these ends, it wound up going to Cornell Cooperative Extension, because that was the most clear entity. So although there is a member of that •• there's someone on that committee who's from Cornell Cooperative, they did not apply for funding, they did not •• they were not responsible for approving funding. That was completely a Legislative initiative. That's why I think that this •• this paragraph on page three regarding the conflict of interest is not a very clear conflict of interest. And perhaps, I think it

would have to be looked at on •• or scrutinized on a very clear case by case basis, because you do have overlapping entities who do make recommendations, who do studies, and they might wind up being our choice for the best place to channel the money. I mean, wouldn't you agree, Jim, we worked on this together?

**MR. SPERO:**

That's right, we did. And we both felt Cornell was the best place to put those funds.

**LEG. VILORIA • FISHER:**

But they had not made application to it really.

**MR. SPERO:**

No, they had not.

**LEG. VILORIA • FISHER:**

Okay. So that's a clear case where although they sit on the board, I don't believe it was a conflict of interest, they just brought in the expertise, the PEP Board, which is what I •• I know that it's two or three steps removed, because I then created the committee based on those recommendation and then we followed state guidelines. So they were three steps removed, but I don't see that it would have been conflict of interest. And I wouldn't want to lose Cornell Cooperative's expertise because of fear of conflict of interest down the road.

**MR. ZWIRN:**

Perhaps, Mr. Chair, if we make it clear, and I speak to Counsel and BRO, if there's an item that a member of the committee can benefit from, they recuse themselves, then if we red flag it for the Legislature at the time when they go to vote on it, so that they will know there's somebody who may derive a benefit who sat on the committee even though they recused themselves. At least if the Legislature's aware of that, they can take that into account when they decide on the merits of the particular resolution.

**CHAIRMAN BINDER:**

Disclosure is often an antidote to conflicts of interest. Legislator Bishop.

**LEG. BISHOP:**

I'm not a member of the committee, so I appreciate the opportunity, but I'm a member of the Environment Committee for many years, and this initially came out of the Environment Committee, and I wanted to discuss it and see where it was going.

With regard to the particular projects, I appreciate the documents that were put together by the Executive, I mean, that's exactly what we should have all along, I think we all agree with that now. One suggestion in the future, when talking about this fund, I always say that it would be best if we could quantify what each project is going to do going. You know, it's going to make the X tributary system, you know, Y percentage cleaner, you know, so it's more tangible, because obviously, like, on the one in my district, I know initially it was a drainage problem, you know, and it costs •• the actions that you are taking are going to have an affect on the environment that positive, and that's great, but given that background, it would have been helpful to initially see what that impact was. Okay.

Just by background, Pete, that you might find interesting and others, when this program •• when this funding was establishing a couple of years ago, nobody, I think, was really active in using it except for myself, and I had a number of resolutions in 2003 that were adopted by the Legislature. And at that time, the Executive Branch said, hold on, you're not going to just keep putting in resolutions to spend this money, and that's when this committee was created, this Executive, you know, hoop that you now jump through. Whether it's a good idea or bad idea, that is not just paranoid rantings. I mean, I know that to be a fact, that that's how it came about.

I think what's important, though, is that the projects go to that step of the South Shore Estuary or the Long Island Sound Study or the Peconic Estuary for review. If not •• it's going to be an up, down, automatic, whatever they say. At least we should have their input on any projects in the future. So projects should be •• have a quantifiable impact, and that should be noted, and they should go to that step of outside review for comment. And other than that, I'm glad to see we are all trying to work together to solve this. I think this fund has potential to •• to change the history of Long Island for the better. The technology now exists where we can reverse the damage of water pollution that's been done over the years. The public is willing to tax itself to pay for that remedy, and it's our obligation to apply it correctly.

**CHAIRMAN BINDER:**

Thank you. I concur with the comments from Legislator Bishop. One of the things we may want to do, maybe actually explore, is have a requirement, and this is not because you wouldn't do it or you wouldn't do it normally or automatically, we might want to explore having an environment •• some kind of environmental impact statement, let's not call it an EIS, but some kind of impact statement attached to 477 Resolutions so we can see the direct benefit in terms of environmentally from the proposed project.

So I don't know if Counsel can explore looking at making that a requirement for proposals that come to us, whether it's a Legislative proposal or an Executive proposal, it should be across the board, and we understand that. And I think that's a good proposal from Legislator Bishop, and maybe we want to require that. Another question that I think Legislators generally are concerned about was brought out in the Budget Review document where they say programs such as organic maintenance and IPM, and it was just those example programs, in the future should be funded directly from the General Fund, meaning they shouldn't be •• and they say the 477 Fund should not be used on an ongoing basis as a substitute for operating funds. I think that's a real concern by the Legislature, and it will continue to be a concern, and maybe it hasn't in the past because of the sporadic nature of how we were doing them; one by one, we would do, you would do.

We weren't •• now the question is raised because of how many have come forward. And I think it's important to Legislators that the fund be used properly, and that really dovetails with the question that Legislator Bishop brings up about environmental impact, because the whole idea of the fund is environmental impact. And it will •• I think it should concern us whether Legislators or the Executive want to use the fund for what would be normal operating expenditures; for salaries and other things. And so I think that's going to come up as a second question. And I would questions that Legislators would pretty much universally on both sides want to focus the use of the funds on capital project type questions that would substantially make a difference in remediation of the problems in our waterways. And that's what this is all about.

And I think to the extent that we divert money to those things that have management components and other Operating Budget•type components in them, we take away from that •• that goal, and I think that's going to weigh heavily as we go down the road. I don't know that we can make that a requirement, but I do think that's going to be part of the calculation in the Legislature, and I think it will be part of the questioning that comes from committees on this. I don't know if there any other questions from members. Legislator Kennedy, on just the general topic of 477, then we're going to do the particular projects one by one.

**LEG. KENNEDY:**

Just another question, I guess, about •• I'm reviewing the monies identified as fund balance and things such as that, and I'm curious, the 21.1 million fund balance that's referenced, is that fund balance basically there from the quarter •• the quart cent monies that are remitted on a revolving basis from the receipt of the sales tax, or is that bonded proceeds, which are ••

**MR. SPERO:**

That's most exclusively quarter cent money with some interest income thrown in.

**LEG. KENNEDY:**

But none of those proceeds represent bonded money?

**MR. SPERO:**

No, they don't.

**LEG. KENNEDY:**

Okay.

**CHAIRMAN BINDER:**

Especially if there's interest income on there, there better not be bonded money. That would be a problem. Okay. So we're going to do now at this point, since we've just •• I think we've done kind of a thumbnail on the 477 itself, we're going to deal with them one by one. And again, I want to thank the Commissioner for putting together these papers. As you were talking, I was reviewing them as quickly as I could, and they're very informative, and we'll try to go over them as each one comes up. The first one is 2299•04.

**2299•04. Amending the Adopted 2005 Operating Budget to transfer funds from Fund 477 Water Quality Protection, amending the 2005 Capital Budget and Program and appropriating funds in connection with storm remediation improvements for CR 63 Peconic Avenue at Peconic River. (COUNTY EXEC).**

**CHAIRMAN BINDER:**

You know, you could have put them in order, Charlie. It's the last one in case you're looking. Okay. Do we have a motion on 2299•04? I think at this point, it's probably going to be •• let me make a motion to table at this point, because there's going to be more discussion, I think, probably in two caucuses and also between County Executive and us in trying to iron out how we're going to do this. And as you say, Ben, both sides, how we're going to make this a procedure for all 477s that come through here no matter where they come from. So I'm going to make a motion, seconded by Legislator O'Leary. And I think we can do it with all of these at least for today, and we'll have further discussions. But under the •• under that motion, we should discuss, if any Legislator wants, the individual project or we can just table them for now and give you time to look at it. So we have a motion and a second. Does anybody want to discuss the first project?

**LEG. O'LEARY:**

Just on the motion. Are we going to take each individual resolution or just do it in mass?

**CHAIRMAN BINDER:**

I thought I'd do them one at a time. If people want to talk about an individual project, we have information here, people can talk about it. I particularly want to talk about Mill Dam Road. So • and just ask a couple of questions, that's why I want to do them one by one. But we can do them quickly if there aren't questions.

**LEG. O'LEARY:**

At the sake of being repetitive, I just want to remind the County Executive's representative to •• it would be certainly helpful to have the review committee have met prior to our next meeting and to come here through their Chair with the fact that, A, they have met, and B, their recommendations.

**MR. ZWIRN:**

Yep.

**CHAIRMAN BINDER:**

Okay. Are there any questions on the first one? If there not, all in favor? Opposed? 2299 is ••

**LEG. FOLEY:**

I just have a question. Thank you, Mr. Chairman. Just for the County Exec's Office, as far as tabling it one more round, do you see any great harm in tabling? I, at the last meeting, mentioned that as a courtesy to a fellow colleague to •• when one is asked to table, we table for one round to see whether or not the questions are answered. Does the Exec's Office •• do you see any harm in tabling for another cycle to answer some additional questions that have been raised in today's committee meeting?

**MR. ZWIRN:**

Not with respect to these resolution before you today.

**LEG. FOLEY:**

Okay. Good. Thank you.

**CHAIRMAN BINDER:**

So we have a motion and a second to table. All in favor? Opposed? 2299 is **tabled. (VOTE:6 •0•0•0).**

**2300•04. Amending the Adopted 2005 Operating Budget to transfer funds from Fund 477 Water Quality Protection, amending the 2005 Capital Budget and Program and appropriating funds in connection with storm remediation improvements for CR 80 Montauk Highway at Oceanview Road. (COUNTY EXEC)**

**CHAIRMAN BINDER:**

Same motion, same second. Any comments or questions on that one? All in favor? Opposed?  
2300 is **tabled. (VOTE:6•0•0•0).**

**2301•04. Amending the Adopted 2005 Operating Budget to transfer funds from Fund 477 Water Quality Protection, amending the 2005 Capital Budget and Program and appropriating funds in connection with storm remediation improvements for CR 94A Center Drive South at Little Peconic River. (COUNTY EXEC)**

**CHAIRMAN BINDER:**

Same motion, same second. Any comments or questions on this? All in favor? Opposed? 2301 is **tabled. (VOTE:6•0•0•0).**

**2302•04. Amending the Adopted 2005 Operating Budget to transfer funds from Fund 477 Water Quality Protection, amending the 2005 Capital Budget and Program and appropriating funds in connection with storm remediation improvements for CR 96 great East Neck Road at Evergreen Street. (COUNTY EXEC)**

**CHAIRMAN BINDER:**

Same motion, same second. Any questions or comments? If not, all those in favor? Opposed?  
2302 is **tabled. (VOTE:6•0•0•0).**

**2303•04. Amending the Adopted 2005 Operating Budget to transfer funds from Fund**

**477 Water Quality Protection, amending the 2005 Capital Budget and Program and appropriating funds in connection with storm remediation improvements for CR 50 Union Boulevard at Champlins Creek. (COUNTY EXEC)**

**CHAIRMAN BINDER:**

Same motion, same second. Any questions or comments on this one? All those in favor? Opposed? 2303 is **tabled. (VOTE:6•0•0•0).**

**2304•04. Amending the Adopted 2005 Operating Budget to transfer funds from Fund 477 Water Quality Protection, amending the 2005 Capital Budget and Program and appropriating funds in connection with storm remediation improvements for CR 35 at Huntington Harbor. (COUNTY EXEC)**

**CHAIRMAN BINDER:**

Same motion, same second. Just let me •• I just did want to ask one question. As I was looking at it, Charlie, there's •• I guess, the is solution is to put a drainage system. Would something like a filtering system, Rocks in a Box or some kind of a system be adequate, would work better in this and maybe in the others too rather than just putting in places where you say a new •• a brand new drainage system? It's good to have new drainage and peel the water off, but •• but the idea really is also to clean the water, because that water is definitely going to finds its way into the bay there. So while it's •• while you're going to get drainage, you might not get anything cleaning the area. So give me an idea if that's been thought about.

**COMMISSIONER BARTHA:**

We will actually be constructing a recharge basin so we don't have a direct discharge into the

harbor or the pond at this location. We have some property up there that we'll use for that purpose. Each location that we have identified those projects for has different types of problems associated with it. And in some cases, it does involve road oils coming off and into the drainage, and in those cases, the Rocks in a Box type solution is intergraded with our proposal. In this case, from looking at the backup, I don't believe that is part of the problem, but I'll just check.

**CHAIRMAN BINDER:**

I mean, it is right on top of Mill Dam Road. You got to figure there's some road oils and things that have got to come off of there. And my concern in the basin right there obviously is •• give me a moment. My concern obviously is that it's got to be pretty shallow. It's right next to the pond, it's right across the street from the water, so it's almost tantamount to taking whatever is going to be put into the recharge basin with a bit of filter of dirt that it's going to go into right into the water. So, I guess, that's why the question is whether we could get something like a filtration system set up in that one.

**COMMISSIONER BARTHA:**

We actually •• this project and another one that's proposed here, we have •• in the recharge basin itself, we have specific plantings to help capture the pollutants rather than have them filter through the soil. But we can •• we will review with the Health Department again to see if it makes sense to incorporate Rocks in the Box. Once we're doing the new drainage system, it is relatively easy to incorporate the filter.

**CHAIRMAN BINDER:**

That was my thought. Let me then highly urge you and request that if you can put them in there, even with the plantings, by the time •• if the water gets to the recharge basin, and it's substantially cleaner and then when the plantings get to it, what will be put into this •• what will

then discharged into the water around there will be a lot cleaner. And if we can do it, I'd like to see if we can amend this to actually put that system in. That would be appreciated.

**COMMISSIONER BARTHA:**

We will absolutely review that with the Health Department. It makes sense. We'll, if necessary, adjust the amount of the project.

**CHAIRMAN BINDER:**

Thanks. All in favor? Opposed? 2304 is **tabled. (VOTE:6•0•0•0)**

**INTRODUCTORY RESOLUTIONS**

**1068•05. Authorizing public hearing for approval of ferry license for Fire island Water Taxi, LLC. ( PRESIDING OFFICER)**

**CHAIRMAN BINDER:**

Motion by Legislator O'Leary, seconded by Legislator Carpenter. All in favor? Opposed?

**LEG. O'LEARY:**

When is the public hearing?

**LEG. CARPENTER:**

Tuesday.

**CHAIRMAN BINDER:**

That's **approved. (VOTE:6•0•0•0).**

**1069•05. Approving ferry license for Fire Island Water Taxi, LLC. (PRESIDING OFFICER)**

**LEG. CARPENTER:**

Motion to table.

**LEG. O'LEARY:**

Second.

**CHAIRMAN BINDER:**

Motion to table by Legislator Carpenter, seconded by Legislator O'Leary. All in favor? Opposed?  
**Tabled. (VOTE:6•0•0•0).**

**1070•05. Authorizing public hearing for approval of rates for Fire Island Water Taxi, LLC. (PRESIDING OFFICER)**

**CHAIRMAN BINDER:**

Motion to approve by Legislator O'Leary, seconded by Legislator Carpenter. All in favor?  
Opposed? **Approved. (VOTE:6•0•0•0).**

**1071•05. Approving rates established for Fire Island Water Taxi, LLC. (PRESIDING OFFICER)**

**CHAIRMAN BINDER:**

Motion to table by Legislator Carpenter, seconded by Legislator O'Leary. All those in favor?  
Opposed? **Tabled. (VOTE:6•0•0•0)**

### **SENSE RESOLUTION**

**S.007. Sense of the Legislature resolution requesting New York state provide the County of Suffolk with its fair share of transportation assistance. (VILORIA•FISHER)**

**LEG. VILORIA • FISHER:**

Motion.

**LEG. FOLEY:**

Second.

**CHAIRMAN BINDER:**

Can't we expand that to assistance, like, with everything, everything.

**LEG. VILORIA • FISHER:**

Ten times as much money.

**CHAIRMAN BINDER:**

At least ten times, this is just one little piece. I don't want them to get the feeling that we're just concerned about transportation. We're not getting our money back.

**LEG. VILORIA • FISHER:**

But we really need to highlight that suburban municipalities throughout the country are suffering from the inability to develop their public transportation systems because they are ignored. The

infrastructure, both on the state and the federal level •• the transportation infrastructures are ignored and the support that they should have are ignored by the higher levels of government.

**CHAIRMAN BINDER:**

I have a motion by Legislator Viloría•Fisher, seconded by Legislator Foley.

**LEG. FOLEY:**

Cosponsor.

**LEG. CARPENTER:**

On the motion.

**CHAIRMAN BINDER:**

On the motion.

**LEG. CARPENTER:**

Yeah. If I could just mention, there was an initiative about 15 years ago by the LIA on this very, very topic, and they had a group called CLOUT, and it was the committee to lobby on behalf of upgrading our transportation. And that whole argument about getting our fair share, I mean, everything old is new again. It has not changed in 15 years.

**LEG. VILORIA • FISHER:**

Thank you. I've spoken with Mitch Pally about that.

**LEG. CARPENTER:**

And if they have •• I mean, they had buttons made up. I mean, there was a whole media campaign. I remember we went up to lobby and everything. So perhaps we can get some of the information. And I too would like to be listed as a cosponsor.

**LEG. VILORIA • FISHER:**

Thank you. And I'm getting that information. Mitch Pally and I have spoken about that and how it's been an ongoing battle to try to get the support that we need here.

**CHAIRMAN BINDER:**

We have a motion and a second. All in favor? Opposed? **Approved. (VOTE:6•0•0•0).**

Let me just update the discussion on when the hearings are going to be. They are going to be March 15th, not February 15th, on the ferries •• taxis •• water taxis. Is there anything else to come before the committee, other questions for •• Legislator Carpenter.

**LEG. CARPENTER:**

Thank you. I have a couple of items I would like an update on. First of all, in looking at your report to the committee, the monthly report, I don't see the corridor study for County Road 13, 5th Avenue, listed at all. So I would like to find out where that is. So if you could get back to me. I don't need an answer right this minute. The other, I noticed in the report, and this is interesting too, because the report is the December monthly report dated January 20th. So when reference was made to a project being completed the end of this month, what month are we talking about, December, January?

**COMMISSIONER BARTHA:**

It would be the date of the memo, which ••

**LEG. CARPENTER:**

Is January. Okay. So, therefore, the project 7164, which is Sagtikos Manor, which said that the floor plans will be completed this month, are they done?

**COMMISSIONER BARTHA:**

I'll have to check on that.

**LEG. CARPENTER:**

And the other thing •• actually, there are two road projects that required extensive •• required public hearings, which one was held on each of them. One being the Bay Shore Road project from 231 to Sunrise Highway, has a subsequent meeting, public hearing, been set up or

anticipated to be set up in the not too distant future, I hope, because it seems like it's been quite a while?

**COMMISSIONER BARTHA:**

Bill. Bill Hillman.

**MR. HILLMAN:**

It will be set up in the somewhat near future. I do not have the specifics on months, but I can be sure to get back to you.

**LEG. CARPENTER:**

Yeah, I would appreciate that if you could kind of coordinate it with my office before you set up that date for both that and the Wicks Road, because we did have one initial hearing on each of those, but it seems like we are about due for another one. And on the Wicks Road, I noticed in your comments that there was a preferred alternative and that you need to coordinate it with the Town of Islip, has that been happening?

**MR. HILLMAN:**

Yes, it has.

**LEG. CARPENTER:**

Where are you at with that?

**MR. HILLMAN:**

We have a long term alternative and an early implementation alternative, and the early implementation alternative should go forward this year. The long term project we're projecting out more forward towards '07.

**LEG. CARPENTER:**

So will there be a public hearing on that short term so that we can let the community know exactly what's going to be done?

**MR. HILLMAN:**

We can arrange that.

**LEG. CARPENTER:**

Okay. That would be helpful. I'm almost there. The sidewalks on County Road 50, everything's been done, you're ready to start, I would assume, right after the weather breaks?

**MR. HILLMAN:**

Yes.

**LEG. CARPENTER:**

And the one remaining thing •• actually, there are two, but the last one you won't mind. The Fourth Precinct, it was brought up in the Public Safety Committee this morning, again, a lot of concern because of the terrible shape and conditions under which everyone is working there at the Fourth. What's happening?

**COMMISSIONER BARTHA:**

We will be seeking the funding this year for the design of the improvements •• not improvements, but construction of the new Fourth Precinct.

**LEG. CARPENTER:**

Okay. So seeking it when? Sooner rather than later, I would hope.

**COMMISSIONER BARTHA:**

Yes.

**LEG. CARPENTER:**

Okay. So perhaps we could coordinate that with the Legislators that represent the Fourth Precinct so that we could try to move that in an expeditious fashion.

And last on my list is a thank you to you and everyone in the department for the incredible job you did in the snowstorm. There was no doubt as to, you know, where the County Roads where. In many instances, it was absolutely remarkable the job that was done and in such a timely fashion. So to everyone who was involved, they really deserve our thanks.

**COMMISSIONER BARTHA:**

Thank you. We will be certain to relay that.

**CHAIRMAN BINDER:**

Legislator O'Leary.

**LEG. O'LEARY:**

Just an update on a project in my district, William Floyd Parkway, Surrey Circle, the roadway improvements there, what's the status of that?

**MR. HILLMAN:**

I don't have that information at this time, but I'll be sure to get it to you.

**LEG. O'LEARY:**

You'll get back to me on that?

**MR. HILLMAN:**

Without a doubt.

**LEG. O'LEARY:**

Thank you.

**CHAIRMAN BINDER:**

Anything else to come before the committee? If not, I make a motion to adjourn, seconded by Legislator O'Leary. All those in favor? Opposed? We are adjourned.

**(\* THE MEETING WAS ADJOURNED AT 2:33 P.M. \*)**

\\_ \\_ **DENOTES BEING SPELLED PHONETICALLY**